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Present: Mr. Mohinder Singh, Adv. for the petitioner.
Ms. Shubham Sinha for V.K.Tandon, Adv. for respondent no.1

+CM(M) No.40/2007
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1. Parties are litigating for the estate of the deceased Late Sh. S.P.Datta.

2. Whereas petitioner lays a claim to the estate under a will dated 16.10.2000 stated to have been executed by the deceased, the opposite party who has filed a suit for declaration, cancellation and permanent injunction has staked a claim to the estate under a will dated 31.5.88. Declaration has been sought that the will dated 16.10.2000 relied upon by the petitioner be declared non est and void.

3. Meaningfully read, claim in the suit would be that the will dated 31.5.88 executed by the deceased is the last legal and valid testament of the deceased. Needless to state, issue in the probate would be whether the will dated 16.10.2000 is the last legal and valid testament of the deceased.

4. Evidence in the suit would encompass the issue of the validity of the will dated 16.10.2000.

Signature Not Verified

Certify that the digital file and physical file have been compared and the digital data is as per the physical file and no page is missing.

5. The probate and the suit are pending before the same court.

6. The learned trial Judge, vide impugned order dated 28.3.2006, has clubbed/consolidated the two proceedings.

7. I find no infirmity in the order impugned.

8. Dismissed.

January 10, 2007
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PRADEEP NANDRAJOG, J